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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,923	07/30/2003	Lothar Gluderer	WSO-41956	1925

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EXAMINER

GILBERT, SAMUEL G

ART UNIT	PAPER NUMBER
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3736

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,923

Applicant(s)

GLUDERER, LOTHAR

Examiner

Samuel G Gilbert

Art Unit

3736

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hood et al (5,975,081).

Claim 1 - the device as a whole is a wellness apparatus, element -26- is a chamber forming device (living unit), element -46- is a control device, elements -74- are biosensors and the system is directly controlled based on the sensed parameters, column 18 lines 40-44 and claim 1 are examples.

Claim 2 - temperature is sensed, column 22, lines 39-52.

Claim 3 - the system is a closed loop system, column 25, lines 1-20.

Claims 4 and 5 - the biosensors are connected to a control device via a radio link, applicant's attention is invited to element -817-.

Claim 6 - the humidity of the O₂ content is considered to be a composition of fluidic media.

Claim 7 - pressure in the chamber is controlled, column 10, lines 30-45.

Claim 8 - acoustic and light is controlled, column 22, lines 39-52.

Response to Arguments

Applicant's arguments filed 9/17/2004 have been fully considered but they are not persuasive. On page 6 the applicant argues that "the invention of the instant application defines an accommodation room in the sense of an isolation room in which "non-transportable unit or room" a person may stay for a continuous/steady period of time" and the device of Hood relates to a transportable life support system. Further Hood is not configured for a sustained, durable period of time as is the subject matter of the invention of the instant application, lines bridging pages 8 and 9.

The claims as presently presented require a "wellness apparatus" comprising "a living unit", no other limitations relating to the size of the device or the time period in which a subject is in the device. The applicant's specification does not specifically limit by definition the size or shape of the "wellness apparatus" or "living unit". The specification sets forth only non-limiting examples. In the instant case the "living unit" of Hood receives a person which is all that is required by the applicant's claim language, no further size limitations are set forth in the applicants claims.

The applicant further argues the examiner used a hindsight interpretation of Hood et al to meet the claim limitations (an accommodation room, isolation room), page 9. The rejected claims do not contain any limitations directed to an accommodation room or isolating room) Hood et al clearly teaches a chamber(living unit)without needing any teaching from the applicants invention, no size or shape limitations have been presented in the instant claims other than the device must be capable of receiving a person, Hood et al is clearly capable of receiving a person.

The applicant further argues that "No indications can be found in Hood et al. in which a persons wellness is a priority" The examiner believes the Hood et al is totally directed to the wellness of a person because it is a transportable life support system.

The applicant further argues that the applicant's invention can be installed in a private house, a hotel, or the like, such limitations are not present in the applicant's claims.

Further, the applicant argues figure 1 shows equipment in the "living room". It is the examiner's position that these limitations are not present in the claims. Again, the size of the "living unit" is not set forth in the claims or positively limited by definition in the applicant's specification.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel G Gilbert whose telephone number is 571-272-4725. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Sam G. Gilbert', with a stylized flourish at the end.

Samuel G Gilbert
Primary Examiner
Art Unit 3736